

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

Bail Appl..No. 6725 of 2007()

LP.88/2007 of J.M.F.C.,NADAPURAM

.....

CRIME NO. 141/2003 OF NADAPURAM POLICE STATION

PETITIONERS/ACCUSED NOS.3 & 4:

1. HARIS, S/O. MAMMU HAJI,
AGED 27 YEARS, CHAMAKKALIL, IYAMCODE DESOM,
VADAKARA, KOZHIKODE DISTRICT.

2. ABDUL JALEEL C., S/O. IBRAHIM,
AGED 27 YEARS, CHEEROTH HOUSE, KALLACHI,
KOZHIKODE DISTRICT.

BY ADV. SRI.K.P.SUDHEER

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, REPRESENTING SUB INSPECTOR OF POLICE,
NADAPURAM POLICE STATION.

BY PUBLIC PROSECUTOR ADV.SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 06/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J
= = = = =
B.A.No. 6725 of 2007
= = = = =

Dated this the 6th day of November, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 3 and 4. They face indictment in a prosecution for the offences punishable, inter alia, under Sections 4 of Explosive Substances Act. Investigation is complete. Final report has already been filed. Committal court has taken cognizance and registered the committal proceedings. Consequent to non-appearance of the petitioners, the learned Magistrate has issued coercive processes against them. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. The absence of the petitioners earlier was not wilful. It is submitted that the petitioners were not served with any summons. The petitioners are willing to surrender before the learned Magistrate and seek regular bail. But they apprehend that their application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances,

appropriate directions may be issued under Section 438 Cr.P.C, prays the learned counsel for the petitioners.

3. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

4. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are compelling reasons.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE

